

R E M A R K S

The examiner has rejected claims 10 and 15 under 35 USC § 112, first paragraph as being enabling only for claims limited as set out in paragraph 16 of the office action. It is urged that the examiner favorably reconsider this rejection. The examiner has taken the position that as monomer A only olefinically unsaturated C₃-C₅-monocarboxylic acids are supported and that the claimed dicarboxylic acids or anhydrides thereof could only be used by a person of ordinary skill in the art by performing undue experiments. Applicants disclose, however, that particularly suitable components A include maleic acid, maleic anhydride or fumaric acid (page 3, lines 10-13). The replacement of acrylic acid (which applicants use in their working examples) by e.g. maleic acid in the production of the polymers clearly would not require undue experimentation for a person of ordinary skill in this art. Rather, to replace one monomer by another which is well known in the art and is also disclosed in applicants' specification would be nothing other than routine work for such a person. In this regard, the examiner's attention is directed to numerous decisions such as In re Robins, 166 USPQ 552, where Judge Rich made the following statement at page 555:

Both the examiner and the board seem to have taken the position that in order to "justify," as the examiner said, or to "support," as the board said, broad generic language in a claim, the specification must be equally broad in its naming, and use in examples, of representative compounds encompassed by the claim language. This position, however, misapprehends the proper function of such disclosure. Mention of representative compounds encompassed by generic claim language clearly is not required by § 112 or any other provision of the statute...Similarly, representative examples are not required by the statute and are not an end in themselves... (emphasis added)

The examiner has also rejected claims 10-15 as being anticipated by George, has rejected claims 10, 12-13 and 15 as being anticipated by Blank, has rejected claims 10, 12-13 and 15 as

being anticipated by Ott, has rejected claims 10 and 12-15 as being anticipated Westerman and has rejected claims 10 and 12-15 as being anticipated by Hawe et al. Favorably reconsideration of these rejections is urged in the light of the following remarks.

As is indicated in applicants' specification (page 1, line 29) George relates to copolymers of acrylic acids and olefins with 6-18 C-atoms. These copolymers are used in a different field (medical and body care, e.g. as absorbers in diapers). Therefore George et al. cannot anticipate the claimed cosmetic or pharmaceutical compositions, nor does this reference make obvious these compositions.

The examiner will note that the claims are directed to a cosmetic or pharmaceutical composition containing as a thickener or dispersant an effective amount of the subject copolymer. Thus, applicants' claims are clearly outside of the George disclosure.

The Blank patent is also cited in applicants' specification (page 1, line 23). The patent once again relates to a completely different field of use (electro deposition paints, floor coatings etc., see col. 2, line 16). There is no disclosure of or suggestion that the copolymer should be used in cosmetic or pharmaceutical compositions. Therefore, Blank does not anticipate or make obvious the claimed composition.

The Ott patent relates to interpolymers of acrylic acids and 2-ethylhexyl esters of acrylic acids. Applicants' claimed composition comprises polymers of monomer A) (e.g. acrylic acid) and monomer B). Monomer B) can be in the case of B) (1) an ester of a C₈-C₃₀-monocarboxylic acid. That means that B) (1) according to applicants' invention cannot be an ester of acrylic acid, as this is not a C₈-C₃₀ monocarboxylic acid.

The difference between Ott and the present invention is that applicants use an ester of long-chain acids whereas Ott uses an

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ester of a C₈ alcohol with acrylic acid. Ott does not disclose esters of acids other than acrylic acid. Thus, Ott does not anticipate applicants' compositions or make them obvious.


The Westerman patent discloses polymers of carboxylic acids and at least one ester of (meth)acrylic acid and a long-chain alcohol (10-30 C atoms). Westerman does not disclose esters of long-chain acids. For the same reasons as Ott, the Westerman document cannot anticipate or make obvious applicants' claimed compositions.

Hawe discloses polymers of methacrylic acid and an allyl ether of a special formula, whereas applicants use a monomer B)(4) alkyl vinyl ether. Thus, a clear structural difference exists between the Hawe ethers and applicants' ethers. Although Hawe discloses numerous possible ethers, all those ethers have as a common structural element the allyl group. Hawe does not disclose or suggest ethers of a different structure. e.g. vinyl ethers, which applicants use in their polymers. It follows that Hawe neither anticipates nor makes obvious applicants' claimed invention.

It is believed that the application is in condition to be allowed. Favorable action by the examiner is solicited.

Respectfully submitted,

KEIL & WEINKAUF


Herbert B. Keil
Reg. No. 18,967

1101 Connecticut Ave., N.W.
Washington, D.C. 20036
(202)659-0100

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